

May 28, 2021

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY Melanie Miller

DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT**FOWLER BARBER**CASE NUMBER: **W21-103M**

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief.

On or about December 15, 2020, in McLennan County, in the Western District of Texas, defendant(s), being a person who knew he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm, and said firearm was in and affecting commerce, in violation of Title 18, United States Code, Section(s) 922(g)(1) and 924(a)(2).

I further state that I am a(n) Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives, and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

continued on the attached sheet and made a part hereof: YES



ZACHARY J. SMITH, Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Sworn to before me and subscribed in my presence,

May 28, 2021

Date

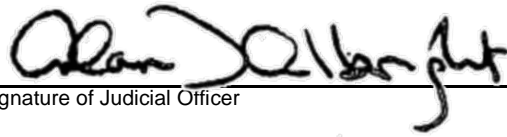
Alan D Albright

Waco, Texas

City and State

U.S. District Judge

Name & Title of Judicial Officer

A handwritten signature in black ink, appearing to read "Alan D. Brought", written over a horizontal line.

Signature of Judicial Officer

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Zachary J Smith, being first duly sworn, do hereby depose and say:

Introduction and agent background

1. Affiant is currently a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), assigned to the Waco, Texas Satellite Office. Affiant has been employed as a Special Agent with ATF since July of 2020. Affiant is a graduate of the Federal Law Enforcement Training Center Criminal Investigator Training Program and ATF Special Agent Basic Training. Prior to being employed by ATF, Affiant worked as a State Trooper for the Texas Department of Public Safety for approximately one year. Affiant has been assigned to this investigation and am familiar with the facts of this case from personal knowledge and discussions with other law enforcement officials and review of relevant documents.

Purpose of Affidavit

2. This affidavit is being made in support of a complaint and arrest warrant for FOWLER BARBER, a convicted felon, who unlawfully possessed a firearm in violation of federal firearms laws in the Western District of Texas. The information enumerated in the paragraphs below, furnished in support of this affidavit, is derived from my own observations, training and experience and upon statements made by witnesses and other law enforcement officers. The paragraphs below do not include all the information about this investigation, only the information necessary to support probable cause.

Probable Cause

3. In October of 2020, Detective Brandon Lehnert with the Waco Police Department was assigned supervision over BARBER after reports that BARBER made terroristic threats towards people in the community. BARBER was admitted to a mental health facility on an emergency detention order. On October 29, 2020, Detective Lehnert spoke with BARBER who made statements that he possibly possessed multiple firearms, including a Steyr AUG Rifle, Benelli 1014 Shotgun, and a M40 Sniper Rifle, at an undisclosed location. Based on other statements made by BARBER, Detectives were skeptical of the validity of the information about the firearms.

4. On December 30, 2020, Detective Lehnert arrested BARBER for making a terroristic threat towards family members. After his arrest a letter was found directed to his mother stating he was going to cut her head off with a tomahawk. No further interviews were conducted while the threat charges were pending and BARBER remained in custody.

5. On May 20, 2021, Detective Lehnert interviewed BARBER at the McLennan County Jail, due to BARBER'S expected release from the jail on May 29, 2021. The purpose of the interview was to attempt to determine BARBER'S mental state and if BARBER posed a threat to the community upon release. During the interview, BARBER told Detectives that his prior felony drug conviction prohibited him from fulfilling his dream from joining the military. BARBER further told Detective Lehnert that in 2016, when the ATF and FBI conducted a search warrant at his residence in Waco, Texas, they missed "assets" in the house. On this same date after the interview, Detective Lehnert intercepted a jail call between BARBER and his mother asking if she had sold the "assets" yet. He then asked her why she has not sold the "assets" yet.

6. On May 26, 2021, Detective Lehnert spoke to Anna Enger, the mother of BARBER. Enger disclosed she rented a storage unit at Ideal Self Storage located at 225 North Industrial Drive, Waco, Texas, storage unit #205, where BARBER had property stored. Enger further stated she and BARBER moved his property into the unit. Enger gave Detective Lehnert consent to search the storage unit. This location is within the Waco Division of the Western District of Texas.

7. On May 26, 2021, Detective Lehnert and other Waco Police Detectives began searching the unit where they discovered firearms. In addition, detectives discovered numerous firearm parts, body armor, and reference books and documents related to the manufacturing of improvised weapons, explosives, and controlled substances, among other things. Once firearms were discovered, Detectives contacted Special Agent Aaron Woods, and he and your Affiant went to the unit. After a thorough search of the unit, the following firearms and ammunition were located:

- H&K Shotgun, model M3 Super 90, 12 gauge, serial number M113066
- Benelli Shotgun, model M1014, 12 gauge, serial number TM06229
- Steyr AUG rifle, .223 caliber, serial number CW02122
- 31 rounds of .223 ammunition
- LMT AR type lower receiver, model Defender 2000, serial number LMT43451
- LMT AR type lower receiver, model Defender 2000, serial number LMT47234
- Springfield rifle, model M1A, serial number 127502

8. After the firearms were located, ATF Special Agent John Lora who advised the above firearms were not manufactured in Texas and had to travel in interstate and/or foreign commerce to be found in Texas.

11. Affiant has reviewed the National Crime Information Center (NCIC) criminal history and conviction documents for BARBER which shows that he has previously been convicted of the following felony crimes:

- Possession of a Controlled Substance with Intent to Deliver, Cocaine, 54th District Court, McLennan County, Case Number 2001-222-C, on or about April 1, 2002
- Possession of Ammunition By a Convicted Felon, United States District Court for the Western District of Texas, Waco Division, Case Number 6:16-CR-00239(1)-RP, on or about October 6, 2017

12. On May 27, 2021, Affiant interviewed BARBER and he made statements that inferred his knowledge of being a prohibited person because of past convictions on his record. Moreover, BARBER knew he had been convicted of a crime punishable by imprisonment for more than one year, as he was sentenced to more than one-year imprisonment for his state drug conviction. Affiant knows from speaking to other ATF Agents and Assistant United States Attorneys that defendants are admonished by the Waco United States District Court judges at both their arraignment and the guilty plea of the maximum sentence the defendant is facing. Affiant believes BARBER would have been informed by the Court during his guilty plea proceedings of the ammunition possession conviction that he could have received more than one year imprisonment as a possible punishment.

13. On May 27, 2021, SA Woods obtained a copy of the rental agreement for the storage unit from Ideal Self Storage. The agreement showed that Engel rented the unit on July 16, 2019, and was the sole person listed on the agreement. Based on the date of the rental of the storage unit and the date of BARBER'S arrest, Affiant believes that the firearms listed above were possessed and controlled by BARBER on or about December 15, 2020.

14. Affiant further believes that FOWLER BARBER, having previously been convicted of a crime punishable by a term of more than one year of imprisonment, unlawfully possessed a firearm, which had affected interstate and/or foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).



ZACHARY J. SMITH, Special Agent
Bureau of Alcohol, Tobacco, Firearms & Explosives

SWORN TO AND SUBSCRIBED before me on the 28th day of May, 2021.



ALAN D ALBRIGHT
United States District Judge